

## MEDICO-LEGAL INVESTIGATION OF DEATHS BY VIOLENCE IN MASSACHUSETTS.

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**I**N 1877 the Legislature of Massachusetts passed "An Act to abolish the office of Coroner and to provide for Medical Examinations and Inquests in cases of Death by Violence." By the terms of this Act the County Commissioners in each county, except that of Suffolk, were called upon to "divide their several counties into suitable districts for the appointment of one medical examiner in each district;" and such examiner, while appointed from a district, has the power to exercise his function in any part of the county of which his district is a portion. In practice, however, an examiner does not act in the district of another except in case of absence or disability of the latter. Examiners hold office for seven years and are appointed by the Governor by and with the advice of the Council.

The thirteen counties were divided into sixty-eight districts, according to the distribution of centres of population in each county. The usual number of districts is four, but some counties have more and some less than that number. Each examiner is sworn and gives bonds with sureties in the sum of \$5,000 to the treasurer of the county, conditioned for the faithful performance of the duties of his office. Every medical examiner is required annually, on or before the first day of March, to transmit to the Secretary of the Commonwealth certified copies of the records of all deaths which have occurred during the previous year, the cause and manner of which he has officially investigated. For this purpose blank books for records and blank forms for returns are supplied to each examiner. A small fee is allowed and paid by the Commonwealth for these returns as is done for the returns of births. These returns are bound and indexed and preserved for reference, and from

them are prepared and published by the Secretary of the Commonwealth such tabular results as will render them of practical utility.

The work of the examiner may be best studied under the following heads: (1) Notification; (2) View; (3) Autopsy; (4) Records; (5) Fees; (6) Inquest.

(1). Notification.—Examinations under this law are made “upon the view of the dead bodies of such persons only as are supposed to have come to their death by violence;” and “whenever a medical examiner has notice that there has been found, or is lying within his county, the dead body of a person who is supposed to have come to his death by violence, he shall forthwith repair to the place where such body lies and take charge of the same.”

There is nothing in the law to indicate what shall constitute official notice. According to the theory and practice, any responsible person has such authority, and the intent of the law, it is to be presumed, was to allow the broadest liberty in the notification. As a matter of fact, the calls usually come through the police in cities, the selectmen or their representative in towns, the officers of corporations, the undertakers, some member of the family of the deceased, the person finding a body, or possibly, though not frequently, notice may be given by some neighbor or enemy even, of the deceased who is inclined to be suspicious or desirous of settling some old score by instituting investigation. The last motive is rarely successful, since, almost without exception, the services of the examiner are welcomed by the unfortunate family.

The question, Shall an examiner ever refuse to make a view? has been discussed by the examiners, and the general opinion is that he should not refuse, unless there has been a misapprehension of the condition under which he is required to exercise his function. It is not sufficient to say that one died without medical attendance; the idea of suspected violence must enter into the case. The boards of health of cities and towns are authorized to give certificates of the cause of death in cases of uncertified deaths, not suspected of violence. Not infrequently the examiner is con-

sulted by undertakers, sometimes by town officers, to learn whether a certain dead body should be the subject of official view, and the answer turns entirely upon the question of the possibility of anyone supposing that the death may have been caused by violence. If there be such a reasonable possibility, it is undoubtedly a case for view.

(2). View.—Having been notified, the examiner is required by law forthwith to repair to the place where the body lies and to take charge of the same. He now makes a careful view of the body, with such accuracy as to enable him to say whether or not the body shows any marks of violence and especially any marks sufficient to indicate the cause of death. For this purpose, the usual custom is to have the body entirely naked and to make careful inspection of every part. He also makes personal inquiry into the cause and manner of the death, if anyone can be found who can give information. Under some circumstances a careful investigation of the surroundings of the body becomes important evidence in the investigation. All the facts learned in this search are to be accurately recorded.

If, upon this view and inquiry, the examiner is convinced that the death was not caused by violence, he will deliver the custody of the body to the friends of the deceased, if there be such. In case the body is not claimed or is unidentified, it is to be kept in his custody for forty-eight hours and then delivered to the overseer of the poor of the city or town wherein it is found lying. In case the body is not identified a careful description of the deceased is to be made. The examiner is next to certify to the clerk or to the registrar of deaths the name or description of the deceased, together with cause and manner by and in which he came to his death. And here the investigation may end.

If, on the other hand, the examiner is convinced that the death was caused by violence, and he is able to determine without further examination the cause and manner of the death, he will certify as before to the registrar, and also notify the district attorney and a justice of the district, police or municipal court for the district or city in which the

body lies, that there has been within the district a death by violence in the meaning of the law.

(3). Autopsy.—If the examiner is unable to determine satisfactorily the cause of the death without autopsy, and he deems a further examination necessary, he shall so report to the district attorney, or to the mayor, or to the selectmen of the district, city or town where such body lies. Any of these officers may authorize him in writing to make an autopsy, but he can make no autopsy officially without such authority. Before proceeding to make an autopsy, he shall employ two or more discreet persons, one or more of whom may be physicians, and shall first call their attention to the position and appearance of the body, and in their presence shall make an autopsy of sufficient thoroughness to establish fully the cause of death or to establish the fact that the cause cannot be learned by autopsy. The examiner, if he deems it necessary, may employ a chemist to aid in the examination of the body, or of substances supposed to have caused or contributed to the death.

(4). Records—The examiner, or a clerk whom he may employ, shall reduce to writing at the time of the autopsy every fact and circumstance tending to show the condition of the body and the cause and manner of death, together with the names and addresses of the witnesses, which record the examiner shall subscribe, and which is known as the record of the autopsy. A duly attested copy of the record is filed with the district attorney, and another with the justice of the district court, together with a certificate of a death by violence above described.

If a medical examiner is of opinion that a death was not caused by violence, and the district attorney or the attorney general is of a contrary opinion, either the district attorney or the attorney general may, notwithstanding such opinion, direct an inquest to be held, at which he or some person designated by him shall be present and examine all the witnesses.

Since the action and opinion of the medical examiner turns wholly upon the question of violence, it becomes very desirable that the term violence be exactly defined; and

yet, as in the case of notification, the law not only does not define it, but seems to use it in its broadest sense, if not indeed in differing senses. But since it is the object of the investigation to learn if any other person than the deceased has been either directly or indirectly causative of the death, it is fair to consider that the violence which is to be officially reported is a violence that may have been contributed to by the act or by the neglect of another. All cases of death by accident upon a railroad are, by special provision, to be reported for inquest, and the district attorney or attorney general may, if he deems it necessary or expedient, direct an inquest to be held in the case of any other casualty from which the death of a person results.

(5). Fees.—In the county of Suffolk the examiners are paid annual salaries for all services performed. In all the other parts of the State examiners are paid fees as follows: For a view without an autopsy, five dollars; for a view and autopsy, thirty dollars; and for travel, at the rate of ten cents a mile to and from the place of view. The bills for services are rendered quarterly to the county commissioners, who certify their correctness when the fees are paid by the county treasurer. In case of autopsy, however, there must accompany the bill the certificate of the mayor or of the selectmen who authorized the autopsy, and a statement from the district attorney certifying that the autopsy was in his opinion necessary. In order to enable the district attorney to make this certificate the examiner is required in every such case to file with the attorney together with his report of the autopsy an account of his view and personal inquiry in the case and shall certify that, in his judgment, the cause and manner of death could not be ascertained by view and inquiry, and that an autopsy was necessary for that purpose.

At this point the official relation of the examiner as such ceases, though he may or may not be employed as a witness at the inquest or at the subsequent trial, if one follows.

(6). Inquest.—In case the examiner has notified, as above described, the justice of the district court that there has been a death by violence, the justice is required to hold an

inquest, and is allowed no discretion in the matter except as to the time and place of such inquest. At this hearing, such witnesses as have been found to have any knowledge of the facts are summoned to testify, and the district attorney or some person designated by him may attend the inquest and examine all the witnesses. In practice, the judge himself usually examines the witnesses.

After hearing the testimony, the justice is required to draw up and sign a report in which he shall certify when, where and by what means the person deceased came to his death; and if it appears that his death resulted wholly or in part from the unlawful act of any other person or persons, he shall further state the name or names of such person or persons if known to him, and he shall file such report with the records of the Superior Court in the county wherein the inquest is held. The law further allows the justice to bind over such witnesses as he may think best, and requires him to take the necessary steps for the apprehension of any person or persons charged in his report with the commission of an offence.

Thus have I endeavored to describe to you the method of medico-legal investigation of deaths by violence that has been practiced in Massachusetts since the abolition of the office of coroner, and naturally the question may arise, What has been gained by the change? In answer I will call your attention to a few of the points of gain. First, the expense, which to many minds is of the first importance in matters of public concern, has been diminished about one-third. Second, promptness in action and exactness in investigation have been accomplished. Third, all the facts of the case from the first discovery of the body to the finding of the justice are matters of accurate record and are material as evidence in case a trial follows the inquest. Fourth, the duties are so divided that the man of medical training investigates so much of the case and only so much as has to do with the medical question of the cause and manner of the death, while the man of legal training settles the question of responsibility and determines whether or not a crime has been committed, what the nature of that

crime, and, if possible, who is the suspected criminal. Fifth, the records in the hands of the Secretary of the Commonwealth constitute a valuable body of observed facts that may become of great value to the student of legal medicine. Last, the association of medical examiners, constituting the Massachusetts Medico-Legal Society, has stimulated each examiner to keep himself well informed and as far as possible prepared for any case that may fall to his lot. And in general the diffusion through the State of a number of physicians specially interested in medico-legal research has tended to call the attention of physicians to that branch of medical study, and has had an influence to improve the grade of medical testimony in the courts of the Commonwealth.

## HYPNOTISM IN THE ARGENTINE REPUBLIC.

The National Board of Hygiene has adopted the following resolutions, published in "*Anales del Departamento Nacional de Higiene*," for May, 1891.

1. Prohibiting the representation of hypnotism and suggestion in the theatres and other public places.

2. Only those authorized by our board to practice the healing art may apply hypnotism in the practice of medicine, never daring to hypnotize an individual without his consent, or against the wishes of his parents or other interested personages; the physician shall be responsible for any injurious effects caused by such hypnotization, providing that after an examination by two members of our board and two neuro-pathologists, they shall decide that a contra-indication for hypnotism existed or the physician was ignorant of the operative technique.

3. Prohibiting the employment of hypnotism to every person not legally authorized to practice medicine.

4. The physician is prohibited from making suggestions without the patient's consent, or in case the latter is unable to deliberate himself, then the consent of the parents or tutor is necessary, in every case explaining the curative results which he proposes to obtain; furthermore, he shall abstain from provoking sad, painful or horrible suggestions.

5. Transgressors will be punished according to the law which regulates the practice of medicine.

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